IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3265 of 2006
DATE OF DECISION: 28.8.2006

United India Insurance Company Ltd.

...Appellant

versus

Hari Om Yadav and others

... Respondents

CORAM:- Hon'ble Mr. Justice Uma Nath Singh.
Hon'ble Mr. Justice Mahesh Grover.

Present: Mr.Vinod Chaudhary, Advocate,
for the appellant

UMA NATH SINGH, J. (Oral)

This FAO arises out of an award dated 25.3.2006 passed by learned Presiding Officer, Motor Accident Claims Tribunal, Gurgaon, in MACT Case No. 13 of 4.2.1999, awarding a sum of Rs.2,12,500/- in death case of a 45 years old house wife.

Learned counsel submitted that the Insurance Company has been granted permission under Section 170 of the Motor Vehicles Act, 1988 (for short `the Act'). Learned counsel mainly contended that this is a case of collusion inasmuch as the FIR did not contain the details of the vehicle and the driver. Learned counsel also submitted that though the claim was filed under Section 166 of the Act but after a gap of 6 years, permission was granted to convert it to Section 163-A of the Act.

We have carefully examined the contentions of learned counsel for the appellant and we find no force in the submissions. It appears from the appreciation of the evidence by the Tribunal that the FIR was lodged immediately after the accident and if the police has filed an un-traced report, the claim petition is not liable to be dismissed. This is precisely so because criminal proceedings are altogether different and the standard of proof in

such proceedings is stricter. Besides, the insurer has also not cross-examined the driver, respondent No.1. Further, the statements of respondent Nos.1 and 3 have been found to be unrebutted. Furthermore, the insurer did not question the conversion of the petition from Section 166 of the act to Section 163-A of the Act and in totality accepted the order. That apart, the compensation amount is also not on higher side, as the income of the deceased has been assessed only at Rs.2,000/- per month, though she was a house wife, and Hon'ble the Apex Court in a judgment reported in 2001 ACJ 1735 (Lata Wadhwa and others versus State of Bihar and others), has determined the dependency at Rs.3,000/- per month. Accordingly, the award amount being just and reasonable, we are not inclined to interfere with the award.

Hence, the FAO, being devoid of merits, is dismissed.

(UMA NATH SINGH)
JUDGE

August 28 , 2006
pk

(MAHESH GROVER)
JUDGE